

FOR INFORMATIONAL USE ONLY
COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 02-MSRC-002

**COMMONWEALTH OF KENTUCKY,
DEPARTMENT OF MINES AND MINERALS**

COMPLAINANT

v.

TED R. BROWN

RESPONDENT

FINAL ORDER

This matter having come before the Commission on the parties Joint Motion to Approve Settlement Agreement, and the members of the Commission having reviewed the Settlement Agreement filed on April 9, 2002 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY ORDERED as follows:

1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The Respondent's Underground Mining Instructor's Certificate, # MI-***-**, issued by the Commonwealth of Kentucky, shall be permanently revoked effective April 11, 2002;
3. The Respondent's Surface Mining Instructor's Certificate, # SI-***-**, issued by the Commonwealth of Kentucky, shall be permanently revoked effective April 11, 2002;
4. The Respondent's Underground Mine Foreman's Certificate, # A-**-**, issued by the Commonwealth of Kentucky, shall be permanently revoked

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effective April 11, 2002;

5. The Respondent's Surface Mine Foreman's Certificate, # S-***-**, issued by the Commonwealth of Kentucky, shall be permanently revoked effective April 11, 2002;

6. Pursuant to the terms of the Settlement Agreement, the Respondent has agreed not to re-apply to become a mining instructor or a mine foreman in the Commonwealth of Kentucky at any time in the future;

7. The Respondent shall turn over his underground and surface mining instructor's certificates, and his underground and surface mining foreman's certificates to a representative of the KDMM on or before April 11, 2002, at a time and place to be arranged by the parties;

8. The Settlement Agreement signed by the parties and filed with the Commission shall be incorporated by reference and attached hereto;

9. This Final Order represents a final disposition of all issues between the parties in this matter. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission. Pursuant to KRS 351.194(8), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of an order.

Entered this _____ day of April 2002.

BAYARD V. COLLIER, CHAIR
MINE SAFETY REVIEW COMMISSION

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing FINAL ORDER was served by certified mail, return receipt requested, to the following this _____ day of April 2002:

TED R. BROWN

WHITESBURG KY *****

And by messenger mail to:

COMMISSIONER FRANK DELZER
DEPT. OF MINES & MINERALS
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

HON. TONY OPPEGARD
GENERAL COUNSEL
DEPT. OF MINES & MINERALS
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

And the original shall be kept on file:

MINE SAFETY REVIEW COMMISSION
132 BRIGHTON PARK BLVD.
FRANKFORT KY 40601

DIANE SCHULER FLEMING
GENERAL COUNSEL
MINE SAFETY REVIEW COMMISSION

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KENTUCKY MINE SAFETY REVIEW COMMISSION

KENTUCKY DEPARTMENT OF MINES & MINERALS)	
)	
Complainant)	
)	
v.)	Docket No. 02-MSRC-002
)	
)	
TED R. BROWN)	
)	
Respondent)	

SETTLEMENT AGREEMENT

Come the parties herein - the Complainant, the Kentucky Department of Mines & Minerals (“KDMM”); and the Respondent, Ted R. Brown (“Brown”) - and state that they have agreed to a settlement of the above-styled disciplinary proceeding, according to the following terms:

In consideration for the cancellation of the hearing before the Kentucky Mine Safety Review Commission scheduled for April 11, 2002, and the dismissal of this action, Brown hereby admits to violating section 110(f) of the Federal Mine Safety & Health Act of 1977, as set forth in paragraphs 5, 6 and 7 of the Complaint, and further agrees to the **PERMANENT REVOCATION OF HIS UNDERGROUND MINING INSTRUCTOR’S CERTIFICATE (MI-***-**)**; the **PERMANENT REVOCATION OF HIS SURFACE MINING INSTRUCTOR’S CERTIFICATE (SI-***-**)**; the **PERMANENT REVOCATION OF HIS**

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UNDERGROUND MINE FOREMAN'S CERTIFICATE (# A--**); and the
PERMANENT REVOCATION OF HIS SURFACE MINE FOREMAN'S
CERTIFICATE (# S-**-**),** all of which were issued by the Commonwealth of Kentucky. Said revocations shall be effective on April 11, 2002. Brown further agrees that he will not re-apply to become a mining instructor or a mine foreman in the Commonwealth of Kentucky at any future time.

Brown shall turn over his underground and surface mining instructor's certificates, and his underground and surface mine foreman's certificates, to a representative of the KDMM on or before April 11, 2002, at a place and time to be arranged by the parties.

Brown understands and agrees that he has had the opportunity to retain an attorney to represent him in this matter, but that he has chosen to represent himself. Brown further states that he has carefully read and considered this Settlement Agreement prior to signing the Agreement, and that he understands and agrees to its terms and provisions.

The parties acknowledge that there are no other promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.

TED R. BROWN

FRANK X. DELZER, HC
Commissioner

Whitesburg, Kentucky *****

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Kentucky Dept. of Mines
& Minerals
P.O. Box 2244

Frankfort, Kentucky
40602

DATE

DATE